IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6010 of 2005

Between:

ABM High School, Chebrole, Guntur District Rep by its Correspondent
Sri.P.Jayachandra Rao

... PETITIONER

AND

1 State of A.P, Rep by its Secretary
School Education, Secretariat , Hyderabad.
2 Commissioner & Director of School Education
Guntur District
3 The Regional Joint Director of School Education
Guntur District, Guntur.
4 The District Educational Officer
Guntur district, Guntur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ more in the nature of writ of Mandamus declaring the action of the respondents in seeking to stop further process on the selections made by the petitioner institution for recruitment to the aided posts in the petitioner institutions despite the selections were made after the Regional Joint Director has given permission for filling up of the vacant posts, purporting to apply the ban orders of the Government Memo.No.12080/Cose/A2/2004-4, dt.
20-10-2004 as being arbitrary and illegal, violative of Articles 14 of the Constitution of India and consequently direct the respondents 3 and 4 to forthwith pass orders of

approval in terms of sub-rule 8 of Rule 12 of G.O.Ms.No.1, dt.1-1-1994 on the selections made by the Selection Committee and issue such other writ or order or orders as deemed fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.CH.SAMSON BABU

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court at the stage of admission made the following:

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ORDER:

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This writ petition is filed seeking a Writ of Mandamus declaring that the action of the respondents in seeking to stop further process on the selections made by the petitioner institution for recruitment to the aided posts in the petitioner institution despite the selections were made after permission from the Regional Joint Director

for filling up of vacant posts as arbitrary and illegal.

It is stated that three grant-in-aid posts fell vacant in the petitioner School and for filling up the said posts, the petitioner has already taken all the necessary steps and the Competent Authority has also accorded the necessary permission vide proceedings dated 13-11-2003, in pursuance of which the Staff Selection Committee was constituted and the candidates were selected. However, the approval of the Competent Authority has not yet been granted and consequently the appointments could not be made in view of the General Ban on Recruitment imposed by the Government under the Memo dated 20-10-2004.

The contention of the petitioner is that the General Ban under Memo dated 20-10-2004 cannot be made applicable to the case on hand since the Competent Authority has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo dated 20-10-2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in W.P.No.22188 of 2004, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-2004, held that in the Memo dated 20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the Writ Petition is disposed of with a direction to the respondents 3 & 4 to pass orders of approval in accordance with law notwithstanding the ban imposed under the Memo dated 20-10-2004 so as to enable the petitioner to fill up the vacant posts. No costs.

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G. ROHINI, J

Dated: 04-04-2005

LSK

ASSISTANT REGISTRAR

To

1 The Secretary,
School Education, Secretariat , Hyderabad.
2 Commissioner & Director of School Education, A.P. Hyderabad
3 The Regional Joint Director of School Education
Guntur District, Guntur.
4 The District Educational Officer
Guntur district, Guntur.

5 Two C.Cs. to the G.P. for Education, High Court Buildings, Hyderabad.
(OUT)

6 Two C.D. copies.